

REMARKS

I. STATUS OF THE CLAIMS

Claims 3 and 4 are canceled herein, without prejudice or disclaimer.

In view of the above, it is respectfully submitted that claims 1-2 and 5-8 are currently pending.

II. OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Claims 1, 2, 5, 6, 7 and 8 are rejected under the doctrine of obviousness-type double patenting in view of US Patent No. 6,687,001, which is the patent issuing from the parent application.

A Terminal Disclaimer is submitted herewith, to thereby overcome the rejection.

In view of the above, it is respectfully submitted that claims 1, 2, 6, 7 and 8 should now clearly be allowable.

III. REJECTION OF CLAIM 5 UNDER 35 USC 102(B) AS BEING ANTICIPATED BY HABOSIAN

As shown in FIG. 1 of Habosian, plate 48 is rotated by motor 46 to laterally shift spectral line 16 off of slit 18, so that only background band 60 registers in slit 18. In this manner, background band 60 can be measured.

For example, as shown in FIG. 2A of Habosian, both spectral line 16 and background band 60 are superimposed on slit 18. To separately measure background band 60, plate 48 (FIG. 1) is rotated by motor 46 (FIG. 1). As a result, as shown in FIG. 2B of Habosian, spectral line 16 will be shifted off slit 18, so that only background band 60 will register in slit 18. See, for example, column 2, line 53, through column 3, line 16, of Habosian.

Therefore, Habosian shifts spectral line 16.

However, Habosian does not disclose or suggest that an angle of shift of spectral line 16 caused by the rotation of plate 48 is controlled in accordance with the light as received by the bank of photomultipliers 20.

Therefore, it is respectfully submitted that Habosian does not disclose or suggest "the device being controlled in accordance with the light as received by the photodevice array to control the angle", as recited in claim 5.

In view of the above, it is respectfully submitted that the rejection is overcome.

IV. CONCLUSION

In view of the above, it is respectfully submitted that the application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

If any further fees are required in connection with the filing of this response, please charge such fees to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: October 4, 2004

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